

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ORIYOMI ALOBA,

Plaintiff,

v.

UNITED STATES BUREAU OF PRISONS,

Defendant.

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Civil Action No. 21-10729-IT

ORDER

May 5, 2021

TALWANI, D.J.

Pro se Plaintiff Oriyomi Aloba has filed a Complaint [#1] against the United States Bureau of Prisons (“BOP”) and a Motion for Leave to Proceed in Forma Pauperis [#2]. For the reasons set forth below, the court will order that this action be dismissed without prejudice and the motion shall be terminated.

Aloba states that he is incarcerated at the FCI El Reno in El Reno, Oklahoma. He brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the Privacy Act of 1974, 5 U.S.C. § 552a. He states that, on July 20, 2020, he mailed to the BOP a request under FOIA and the Privacy Act for production of incoming mail logs from two correctional facilities in which he has previously been held. According to Aloba, these facilities are located in California and Texas, and they are both under the authority of the BOP. Aloba further represents that the BOP acknowledged receipt of his request and informed him that processing time would be up to nine months. Aloba claims that this nine-month period has expired, the BOP has not produced the requested documents, and the BOP has not responded to his inquiries about the

status of his request. Aloba asks that this court order the BOP to produce the records that Aloba requested.

The District of Massachusetts is not the proper district for this action. Both FOIA and the Privacy Act provide for judicial enforcement by an action filed in “the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia.” 5 U.S.C. § 552(a)(4)(B); 5 U.S.C. § 552a(g)(5). Aloba does not reside or have his principal place of business in the District of Massachusetts. Further, there is no suggestion that the BOP records he seeks are situated in the District of Massachusetts.

Where a litigant commences an action in the wrong judicial district, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406. While the action could have been brought in the United States Court for the Western District of Oklahoma (where Aloba currently resides), the District of Columbia, or the district in which the BOP records he seeks are situated, the court does not know where the records Aloba seeks are situated or which transferee court Aloba prefers. The matter has been pending in this court for only a short period of time and Aloba has not paid the filing fee. Accordingly, dismissal without prejudice, rather than transfer, would thus cause no undue prejudice to Aloba and would allow him to refile in the proper judicial district.

Accordingly, this action is DISMISSED without prejudice. The clerk shall terminate the Motion for Leave to Proceed *in Forma Pauperis* [#2], and no filing fee is assessed.

IT IS SO ORDERED.

/s/ Indira Talwani
United States District Judge

May 5, 2021